IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 57 of 2001

Date of decision :31.8.2007

Anup Kumar **Petitioner**

Versus

State of H.P. **Respondent.**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Mr. Vinay Thakur, Advocate

For the Respondents: Mr. J.S.Guleria, Law Officer.

Deepak Gupta, J.(Oral)

This Criminal Revision is directed against the judgment of the learned Sessions Judge, Una, upholding the judgment of the Chief Judicial Magistrate, Una, dated 31.12.1996 whereby he has convicted the accused of having committed an offence punishable under Sections 279/304-A IPC and has sentenced him to undergo imprisonment for three months under Section 279 and six months under Section 304-A IPC with both the sentences to run concurrently.

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

The brief facts necessary for decision of the case are that on 23.6.1991 a Maruti Car hit an old lady who was walking on the side of the road at village Khurwain. It was alleged by the prosecution that the accused was driving his car bearing No. DIC-4836 in a rash and negligent manner and had hit the old lady and caused her death.

The prosecution in support of its case examined 9 witnesses. PW-1 is Bholla Ram. He stated that he saw the old lady Smt. Bhakti Devi going towards her house after purchasing sugar from ration depot. According to him, Bhakti Devi was walking on the left side of the road and a red coloured Martuti Car bearing No. DIC-4836 came from Una side and hit the old lady and the car driver fled away in the car. He has stated that the accident occurred due to the rash and negligent driving of the accused. The suggestion put to this witness is that the car driver blew the horn and on hearing the sound of the horn, the old lady got puzzled and resultantly hit the car. This suggestion clearly shows that the accused admits that there was a collision between the car and the old lady. Bhola Ram is the only person who has seen the accident.

PW-2 Gurbachhan Singh has not seen the accident, but states that he was told by some person that a red coloured Maruti Car driven at a fast speed had hit the old lady.

PW-3 has also not seen the accident, but he also says that a Maruti Car hit the old lady and when he heard the noise, he went outside and found that the old lady had died. The other witnesses are not the eye witnesses.

Both the courts below have held that the prosecution has proved that the car of the accused hit the deceased and that he fled away after the accident and they have also held that the car was being driven rashly and negligently and, therefore, convicted the accused.

I have gone through the entire evidence and find that there is sufficient material on record to show that it was the accused who was driving the car. Though in his statement under Section 313 Cr.P.C. the accused has denied that any person was hit by the car, in the suggestion put to eye witness, PW-1, it was suggested that the deceased got puzzled and then hit the car. This stand is totally contradictory. The accused did not even care to stop at the place of accident to see whether the old lady

was dead or alive. He did not care to take her to the hospital. He fled away from the spot. Therefore, he deserves no leniency. There is no jurisdictional error in the orders of the courts below and on pure appreciation of evidence they have come to the finding that the accident occurred due to rash and negligent driving of the accused. This finding cannot be set aside in revisional proceedings.

In view of the above discussion, there is no merit in the revision petition which is accordingly dismissed.

August 31, 2007(K) (Deepak Gupta),J.